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Paper No. 6

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**COPY MAILED**

**JUN 10 2002**

**OFFICE OF PETITIONS**

In re Application of  
Robert J. Christy et al.  
Application No. 09/879,746  
Filed: June 11, 2001  
Attorney Docket No. GNTX-00100

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: DECISION REFUSING STATUS  
: UNDER 37 CFR 1.47(a)  
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This is in response to the petition under 37 CFR 1.47(a), filed on January 21, 2002 (certificate of mail date)<sup>1</sup>.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 11, 2001 naming Robert J. Christy, Yi-Chun J. Wang and Suzanne A.W. Fuqua as joint inventors but without an executed oath or declaration. Accordingly, on August 20, 2001, a "Notice To File Missing Parts of Application" was mailed, requiring an executed oath or declaration, a surcharge for its late filing and the requirements under 37 CFR 1.821-1.825 regarding Sequence Listings.

In response, on January 21, 2002 (certificate of mail date) petitioner filed, *inter alia*<sup>2</sup>, the instant petition under 37 CFR 1.47(a), and (a) the required petition fee and surcharge for late filing; (b) a declaration signed by joint inventors Christy and Wang only; (c) the last known address of non-signing joint inventor Fuqua.

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<sup>1</sup>A petition for extension of time under 37 CFR 1.136 (a) was timely filed on January 21, 2001.

<sup>2</sup>A computer readable form (CRF) copy of the "Sequence Listings" in compliance with 37 CFR 1.821-1.825 is submitted in response to the August 20, 2001 "Notice".

Petitioners assert, in a declaration by joint inventor, Robert J. Christy, that, "during the month of August 2001, I [Christy] forwarded the Inventor's Declaration and Assignment papers to joint inventor Suzanne Fuqua at 5410 Drakeview Court, Sugar Land, Texas 77479", and that .....Dr. Fuqua has presently refused to sign the Inventor's Declaration and Assignment papers which were forwarded to her at her last known address."

A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee; and
- (4) a statement of the last known address of the non-signing inventor.

The instant petition lacks items (1). Petitioner has not provided sufficient details of the manner in which the application papers were presented to Suzanne A.W. Fuqua nor of the refusal to merit granting 37 CFR 1.47 status. If the refusal to sign was made orally, petitioner must provide details of the refusal in an affidavit or declaration. If the refusal was made in writing, petitioner must submit a copy of the written refusal.

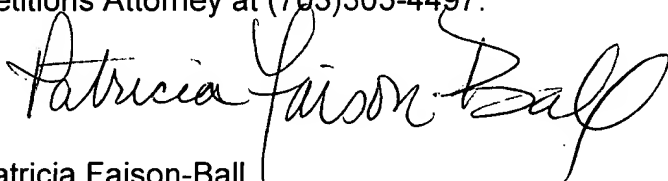
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By FAX: (703) 308-6916  
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23  
2201 S. Clark Place  
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Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497.



Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy